

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROBERT GARDNER,)	
)	
Plaintiff,)	Case No. 1:12-cv-1018
)	
v.)	Honorable Paul L. Maloney
)	
MICHIGAN STATE UNIVERSITY, et al.,)	
)	
Defendants.)	
)	

ORDER REGARDING SUBPOENA FOR POKAGON TRIBE

Plaintiff has moved to enforce a subpoena served on Troy Clay of the Pokagon Band of Potawatomi Indians seeking production of certain documents. The court conducted a hearing on the motion on June 10, 2013. At the hearing, plaintiff informed the court that counsel for the Tribe had produced all requested documents, except documents responsive to paragraphs 1(b) and 3 of the subpoena dated March 15, 2013. At the hearing, the court declined to enforce compliance with paragraph 3, on the grounds of relevance. The court found, however, that the documents subpoenaed in paragraph 1(b) are arguably relevant to plaintiff's claims. In the absence of any answer to the motion or appearance of counsel on behalf of the Tribe, the court has no basis to refuse to enforce this aspect of the subpoena. Before doing so, however, the court will direct plaintiff to make one more effort to seek compliance by the Tribe's general counsel. Accordingly, for the reasons set forth more fully on the record:

IT IS ORDERED that plaintiff must confer as soon as possible with counsel for the Tribe, J. Edward Williams, in an effort to procure the subpoenaed documents responsive to paragraph 1(b). If plaintiff is not successful in coming to an agreement with the Tribe, he is granted leave to file a supplemental motion no later than **June 18, 2013**, describing the status of negotiations with the Tribe and any unresolved issues. A copy of the supplemental motion must be served on Tribal Counsel. The subpoenaed party, Troy Clay, is granted seven days after service of the supplemental motion in which to file a response, raising any objection to the production of the requested documents. Thereafter, the court will decide the matter without further hearing.

DONE AND ORDERED this 10th day of June, 2013.

/s/ Joseph G. Scoville
United States Magistrate Judge